

**Arizona Commission on Access to Justice
MINUTES**

Wednesday, February 7, 2018

10:00 a.m. to 2:00 p.m.

State Courts Building, 1501 W. Washington Street, Conf. Rm. 119A/B, Phoenix, AZ 85007

Present: Judge Lawrence Winthrop (chair), Judge Janet Barton, Judge Thomas Berning, Pamela Bridge, Judge Maria Elena Cruz, Kevin Groman, Judge Anna Huberman, Judge Joseph C. Kreamer, Maria Morlacci, John Phelps, Helen Purcell, Janet K. Regner, Dr. Kevin Ruegg, Kathy Schaben (*proxy for Judge David Haws*), Valerie Wyant

Telephonic: Kip Anderson, Judge Sean Brearcliffe, Millie Cisneros, Anthony Young

Absent/Excused: Mike Baumstark

Presenters/Guests: Chief Justice Scott Bales, Stacy Butler, Dave Byers, Cathy Clarich, Cathleen Cole, Dana Corbo, Christina Corieri, Chris Groninger, Denise Holliday, Robb Itkin, Don Jacobson, Karen Lash, Heather Murphy, Marcus Reinkensmeyer, Mona Stone

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Julie Graber, Kathy Sekardi

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the February 7, 2018, meeting of the Arizona Commission on Access to Justice (ACAJ) was called to order by Judge Lawrence F. Winthrop, chair, at 10:06 a.m. Judge Winthrop welcomed members and introduced new members, Kevin Groman, Judge David Haws, and Valerie Wyant. Chief Justice Scott Bales thanked the commission for its efforts.

B. Approval of Minutes

The draft minutes from the November 8, 2017, ACAJ meeting were presented for approval.

Motion: Judge Thomas Berning moved to approve the November 8, 2017, minutes, as presented. **Seconded:** Janet Regner. **Vote:** Unanimous.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Chairperson's Report

Judge Winthrop reported on several access to justice topics.

- The 2018 Maricopa Veterans StandDown event took place on January 25 and 26 to connect homeless veterans or those at risk for falling into homelessness with resources and services, including civil legal aid. There were 1,658

veterans served and 46 attorneys handled 266 legal consultations in the areas of family law, bankruptcy and debt, landlord/tenant, and estate planning.

- Several presentations were made by ACAJ members to law firms and other organizations regarding access to justice, the commission's work, and the tax credit, and many future presentations are scheduled.
- The January 2018 Arizona Attorney's cover story was on *pro bono* efforts of Arizona's attorneys and the "Last Word" column was devoted to the commission's work and the tax credit.
- An access to justice program is being planned for the State Bar Convention to be held in June.
- Two proposals for presentations were submitted for the 2018 National Access to Justice Chairs meeting on May 12, 2018: 1) how to build a virtual legal information resource center, and 2) adapting the Legal Aid Interagency Roundtable (LAIR) model to a state government setting.

Judge Winthrop reminded the commission that Arizona is one of several states participating in the Justice in Government Project, which encourages the use of existing funding at the state level to provide civil legal aid services to individuals to remove obstacles to employment, escape domestic violence, and stabilize housing for needy families. At the same time, it helps responsible state agencies fulfill their mission of service.

B. Report on the Justice in Government Project

Guest presenter Karen Lash, Director of the Justice in Government Project at American University, discussed how the goals of the commission are finding interest convergence with the policy priorities of the executive branch, including the Arizona Governor's Office. Ms. Lash reviewed the roadmap for the Justice in Government Project and identified priority populations, such as victims of domestic violence, jobseekers who have criminal records, homeless veterans, and people addicted to opioids. She described the focus of LAIR, as well as the Justice in Government Project, which is based on the idea that all levels of government programs are more effective, efficient, and fair when legal services are included among supportive services. The goals are to determine if the LAIR concept can work at the state level; identify when there is interest convergence between the judicial branch and the executive branch; and find civil legal aid funds from existing federal funding sources. Ms. Lash also noted two guiding principles at the federal government regarding legal aid: there is low public awareness for low-income individuals, and social services providers, regarding legal aid as a solution; and there are economic benefits to investing in legal aid, for example, by reducing illegal evictions and domestic violence.

She provided a short primer regarding federal block grants and discussed which ones could include legal aid for priority populations.

1. Domestic violence. Research has shown that access to legal services can be a critical tool in helping domestic violence victims escape from abusive relationships. Governor Ducey has noted that society has a collective

responsibility to help. The Arizona Domestic Violence Legal Assistance Project is a model state program funded by Temporary Assistance for Needy Families (TANF), a state-administered federal block grant. TANF funds can be used for legal representation and to help resolve personal and family legal problems if costs are consistent with the program's purposes. Another grant is the Victims of Crime Act (VOCA). New rules have expanded the type of legal assistance that VOCA can accept, including human trafficking and identity theft. Some states are using their VOCA allocation increases to fund comprehensive statewide victim legal aid programs. The Services, Training, Officers, and Prosecutors Violence Formula (STOP) Grants also allow legal services and legal advocacy.

2. Jobseekers with criminal records. Evidence suggests that legal interventions such as expungement halt the decline in earnings, even boost earnings, and are key components of an effective employment reentry strategy. In the 2018 State of the State Address, Governor Ducey supported policy for individuals who served their time and paid their debt. Legal aid can help jobseekers applying to set-aside their criminal records, reinstating revoked or suspended driver's licenses, and avoiding garnishment by negotiating child support or outstanding debts. Examples of block grants that support jobseekers' reentry legal needs include the Workforce Innovation and Opportunity Act (WIOA), TANF, Community Development Block Grant (CDBG), Social Services Block Grant (SSBG), and Title II Formula Grants Program.
3. Homeless veterans. Research has shown that five out of the top ten unmet needs for homeless veterans involve legal assistance like eviction foreclosure prevention, child support issues, and outstanding warrants and fines. Arizona's policy directive notes that eliminating homelessness among veterans is within reach. Available block grants to help homeless veterans include CDBG, SSBG, and Community Services Block Grant.
4. People struggling with the opioid epidemic. There is some research that suggests that civil legal aid can positively impact an individual and drive down the costs of healthcare. Governor Ducey has provided policy directive and leadership on the topic. The Substance Abuse Prevention and Treatment Block Grant and the State Targeted Response to Opioid Crisis Grant are helping families that are struggling with opioid addiction to address legal needs.

Member Comments:

- It is essential that the executive branch be an active partner in this project. Governor Ducey and his office have shown a willingness to listen, collaborate, and come up with great ideas.
- Christina Corieri from the Arizona Governor's Office reported on ongoing programs that focus on reentry issues for individuals with criminal records and victims of crime. These initiatives highlight how interests converge

between the judicial and executive branches. She offered the commission an opportunity to talk to key executive branch representatives who are running these programs.

C. Update on Online Dispute Resolution Software

Marcus Reinkensmeyer, AOC Court Services Division Director, updated members on the progress of implementing online dispute resolution (ODR) software, and provided an overview of the ODR model, proof of concept projects with limited duration to scale upward, and the statewide requests for proposals.

Mr. Reinkensmeyer defined ODR as a digital workspace that is neutral, secure, and in the control of the court where parties can convene to work out a resolution to their dispute or case. ODR would be part of the array of online litigant services. He described the ODR functions and the ODR planning considerations for courts, including the types of proceedings, privacy and security, audience, platform, citizen access, getting to resolution, and funding. The funding model is the most difficult consideration, which consists of either imposing a user fee or have the court absorb the costs because of the efficiencies that are realized.

Mr. Reinkensmeyer reported that Matterhorn was selected as the platform through a competitive bid process. There will be three pilot projects that will last 12 to 18 months and include an evaluation component. The AOC will be paying the user fees during this period. The following courts have agreed to be part of pilot projects in the following case types:

- Yuma County Superior Court in family court post-dissolution cases
- Scottsdale Municipal Court in traffic and misdemeanor cases
- Maricopa County Superior Court in family court post-dissolution and civil debt collection cases

He discussed the statewide request for proposals for ODR. The intent would be to make ODR available to all courts because there would be economies of scale and volume discounts. There is also a possible multi-vendor model so the best vendor in a particular case type could be selected. Mr. Reinkensmeyer reviewed the benefits of ODR, such as access, fairness, procedural due process, efficiency, litigant satisfaction, and enforcement. He also reviewed some findings from Michigan:

- Collection rate increased from 51 percent to 91 percent
- Default rate decreased from 37 percent to 2 percent
- 40 percent of transactions occur after business hours
- 37 percent of individuals could not have otherwise come to court and resolve the matter

Judge Winthrop remarked that ODR enhances meaningful access to justice for individuals and results in collateral benefits for the courts.

Member comments:

- Training should be provided to legal aid services before the pilot projects launch so they can refer individuals.
- Judge Barton reported that family law post-decree will use a different process than debt collection because of the need for a mediator.
- Mr. Reinkensmeyer reported that the AOC will pay the front-end costs as well as user and transaction fees during the pilot projects. The intent is for courts to pick up some of the costs because of the cost savings resulting from efficiencies.

D. Report from the Self-Represented Litigants in Limited Jurisdiction Courts (SRL-LJC) Workgroup

Judge Anna Huberman reported that the workgroup is working on developing *Legal Info Videos* for eviction actions to complement the *Legal Info Sheets* that have already been created and posted. The *Legal Info Videos* will be more effective than the *Legal Info Sheets*, but they are more time consuming to develop. The workgroup has drafted eight scripts, which have been storyboarded by staff. Comments are due in a couple of weeks. The storyboards will be translated into Spanish once they are approved by the workgroup. The goal is to launch the videos as a series in both English and Spanish in April. An example video entitled “Your Landlord is Taking you to Court” was presented to the members.

E. New Rule Change Petition

Judge Huberman reported on SRL-LJC’s discussion of a new rule petition (R-18-0020) filed by the State Bar, which would add pleading requirements to the complaint in eviction actions if the rental unit is subsidized housing as well as a disclosure requirement regarding rent apportionment between the tenant and the public housing entity. The workgroup generally supported the rule petition but suggested the commission file a comment with recommended language changes.

Motion: To support R-18-0020 generally and authorize Judge Winthrop, Judge Huberman, and Pam Bridge to draft a comment in support of the rule petition with recommended language changes, as discussed. **Seconded:** Judge Berning. **Vote:** Unanimous with one abstention.

F. Update on Rule Petitions

Julie Graber reported that R-16-0022 regarding change of judge in eviction actions was adopted on a permanent basis, effective January 1, 2018.

G. Update on Public Information and Messaging Workgroup

Heather Murphy reported on the workgroup’s current projects regarding access to justice.

- AOC staff is in the process of redesigning the English and Spanish Self-Service Centers on azcourts.gov in a similar way as AZCourtHelp.org.

- The workgroup is developing a unique podcast series in which a Supreme Court Justice will be a guest host interviewing a subject-matter expert in a conversational tone on a topic. Podcasts will be five to twelve minutes in length and available on AZCourtHelp.org and azcourts.gov.

H. Update on the AZCourtHelp.org website

Dr. Kevin Ruegg reviewed the Google Analytics and reported that there have been 42,419 unique users since the launch. She reviewed the goals for 2018:

- Make forms fillable
- Provide guided interviews for dissolutions, legal decision-making, and parenting time
- Provide a partner portal to local courts that do not have their own website
- Include jury service information

Theresa Barrett discussed the traditional and digital marketing efforts, such as the redesign of the postcard and the creation of business cards.

I. Report regarding Access to Justice in Tucson and in Federal Court

Stacy Butler discussed three access to justice topics in Tucson and in federal court.

1. Step Up to Justice is a civil *pro bono* law center in Tucson, which attempts to bridge the justice gap for low-income clients. Ms. Butler reported that if individuals were represented by counsel, their outcome was three-times more favorable for guardianships, four-times more favorable for women in domestic violence cases, and nineteen-times more favorable for tenants in housing cases. She discussed JusticeServer, which is innovative software connecting low-income individuals to volunteer attorneys by providing effective client triage for direct representation, clinics, and court programs. It allows attorneys to volunteer from their desk and staff to track work in real time in a more efficient manner. In the first year of operation, Step Up to Justice served 1,000 clients and delivered the equivalent of \$1 million in free civil legal services, which represents a 20 percent increase in access to justice in Pima County. Ms. Butler described sustainability and projected growth for Step Up to Justice, whose model delivers significant cost reduction per case from \$215 to \$147.

Member comments:

- Are you eligible for IOLTA funding as a provider of legal services? It has been discussed but Step Up to Justice has not applied yet.
 - What entices an attorney to do *pro bono* work through Step Up to Justice instead of another organization? Step Up to Justice offers a menu of options, whether it is direct representation or a clinic setting.
2. Ms. Butler discussed resources for self-represented litigants in federal court since 2014. Volunteer attorney clinics began in Tucson in 2015 in partnership with Step Up to Justice. Based on the success of these clinics, clinics began in

Phoenix in 2017. Additional resources were developed, including “The Handbook for Self-Represented Litigants,” which takes the self-represented litigant from the start to the finish of the process, and E Pro Se, which is a web-based complaint drafting tool. The website was improved by providing a section entitled “For those Proceeding Without an Attorney.” Resources for chambers staff were added on the intranet on how to deal with incarcerated and non-incarcerated self-represented litigants.

Member comments:

- Is there consideration to create mediation by court staff for self-represented litigant cases? There is no formal system for non-incarcerated self-represented litigants to get into early mediation.
3. Ms. Butler described the access to justice course that she taught at the University of Arizona. The course objectives included being a problem-finder from the point of view of a self-represented litigant, diversifying perspectives beyond the legal community, and building smart solutions while understanding the end-user. She described some of the lessons learned from the projects: online resources are not a fix-all; resources may be hard to find or use; resources may not match the need; you cannot solve a problem you do not understand; importance of obtaining a diversity of perspectives; and solutions do not necessarily take a lot of money and resources.

Member comments:

- The commission was very impressed by this course and recommended that it be taught at every law school. The approach would be a great complement to existing clinical programs.

J. Report from the Judicial and Attorney Engagement Workgroup

Kevin Groman discussed how the In-House Counsel *Pro Bono* Commission has been working on removing barriers for in-house counsel to do *pro bono* and identified the issue of time as the most difficult challenge. Mr. Groman invited in-house counsel to attend the meeting and review the types of initiatives that the commission has been pursuing.

- Appreciation lunch for Association of Corporate Counsel – AZ Chapter, which won the national award for *pro bono* work.
- Commercial court mediation program to help small businesses. All nine cases were settled.
- Library effort working group has held successful programs for small business and people with modest means.

Judge Kreamer reported that the workgroup has been working on drafting a letter to send to law firms asking about their *pro bono* policies and activities. Chief Justice Bales recently approved the letter, which will be sent out shortly. The workgroup will be holding a strategic discussion exploring options based on the responses received.

III. OTHER BUSINESS

A. Good of the Order/Call to the Public

John Phelps updated members on the Public Service Center, which will launch in March as a way for consumers to connect with attorneys.

B. Next Meeting Date

Wednesday, May 23, 2018

10:00 a.m. to 2:00 p.m.

State Courts Building, Room 119

1501 W. Washington Street

Phoenix, AZ 85007

Adjourned at 1:59 p.m.